IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Misc. Application No. 506/ 2001
(Old No. 5732 of 1987)

Matbar Singh and two others ……..…..Petitioners.

Vs.

Mohan Lal and another ……...……...……Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Lokendra Dobhal learned counsel learned for the petitioners and Sri G.S. Sandhu learned A.G.A. and perused the record.

2- On an application that there was apprehension of the breach of peace in regard to the dispute pertaining to the possession of portion of land of Khautani Khata No. 40, Khasra No. 1183 area about 8 Muthis situate in Patwari Circle Devtadhaar Maniyar, Tehsil Tehri learned S.D.M. concerned had drawn the proceedings under section 145 of the Code of Criminal Procedure (for short 'Code'). The parties were directed to file their written statement and after recording of the evidence of the parties the learned S.D.M. was of the view that the respondent Mohan Lal was in possession of the disputed land on the day of the preliminary order. Considering this finding the proceedings were terminated in favour of the respondent Mohan Lal. The present petitioners felt aggrieved and preferred a revision before the Sessions Judge Tehri Garhwal. The same was however also dismissed on 4.5.1987. The perusal of the judgment indicate that the learned Sessions Judge found himself in agreement with the inference drawn by learned S.D.M. that the respondent Mohan Lal was in possession of the said land on the date of the preliminary order. The concurrent findings on this point are based on material and fair appraisal of the evidence. Moreover decision under section 145 of the 'Code' is subject to a decision of the competent court either civil or revenue. Considering this also, the petitioners, if they have any title the will have to seek the possession through the machinery of the court and as the things stand the petition is devoid of merit and is liable to be dismissed.

3- The petition is dismissed.

(**Irshad Hussain, J.)**

Dated: 5-12-03

ISB